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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

CENTER FOR BIOLOGICAL  
DIVERSITY, *et al.*,

Plaintiffs,

v.

LEE ZELDIN, in his official capacity as the  
Acting Administrator of the United States  
Environmental Protection Agency,<sup>1</sup>

Defendant.

Case No. 3:22-cv-03309-RS

**UNOPPOSED MOTION TO  
TERMINATE CONSENT DECREE**

Defendant Lee Zeldin, in his official capacity as the Administrator of the United States Environmental Protection Agency (hereinafter “EPA”) hereby moves the Court to terminate the Consent Decree in this matter entered on June 15, 2023 (Dkt. No. 37). In support of this motion, EPA states as follows:

1. Paragraph 1.a of the Consent Decree provides that the appropriate EPA official shall “sign a notice of final rulemaking to approve, disapprove, conditionally approve, or

<sup>1</sup> Administrator Lee Zeldin is substituted for former Administrator Michael S. Regan pursuant to Federal Rule of Civil Procedure 25(d).

1 approve in part and conditionally approve or disapprove in part, a [State Implementation Plan  
 2 (SIP)] submittal submitted by Colorado addressing the requirements of CAA section 182(c), 42  
 3 U.S.C. § 7511a, requirements for the Denver Metro/North Front Range Serious nonattainment  
 4 area (codified at 40 C.F.R. § 81.306) under the 2008 ozone [National Ambient Air Quality  
 5 Standards (NAAQS)] no later than September 29, 2023.” Dkt. No. 37 ¶ 1.a. On May 9, 2023,  
 6 EPA published a final rule resolving its obligations as to certain elements of the submittal. *See*  
 7 88 Fed. Reg. 29827 (May 9, 2023). On July 5, 2023, the State of Colorado withdrew two  
 8 elements of the submittal—the Attainment Demonstration and the Reasonably Available Control  
 9 Measures analysis. *See* Dkt. No. 49-3. Accordingly, EPA’s Consent Decree obligations as to  
 10 those elements were terminated.<sup>2</sup> *See* Dkt. No. 37 ¶ 2. On September 7, 2023, the parties  
 11 stipulated to extend EPA’s deadline to act on the contingency measures element of the submittal  
 12 to October 30, 2023, and its deadline to act on certain reasonably available control technology  
 13 (RACT) and enhanced monitoring elements of the submittal to December 13, 2023. *See* Dkt.  
 14 No. 42. On October 26, 2023, the regional administrator of EPA Region 8 signed a final action  
 15 approving the enhanced monitoring element and disapproving the contingency measures  
 16 element, which was published in the Federal Register on November 7, 2023. 88 Fed. Reg. 76676  
 17 (Nov. 7, 2023). On December 4, 2023, the regional administrator of EPA Region 8 signed a  
 18 final action disapproving the remaining RACT elements of the submittal, which was published in  
 19 the Federal Register on December 8, 2023. 88 Fed. Reg. 85511 (Dec. 8, 2023). With the  
 20 withdrawal of two elements, and EPA’s various actions on the remaining elements of Colorado’s  
 21 submittal, EPA’s obligations under Paragraph 1.a have been fulfilled.

22 2. Paragraph 1.b of the Consent Decree provides that the appropriate EPA official  
 23 shall “sign a notice of final rulemaking to approve a revised SIP submission, to promulgate a  
 24 [Federal Implementation Plan (FIP)], or to approve in part a revised SIP submission and  
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26  
 27 <sup>2</sup> Plaintiffs filed a motion requesting that this Court direct EPA to act on those withdrawn  
 28 submittals. *See* Dkt. No. 49. The Court denied Plaintiffs’ motion. Dkt. No. 59. Plaintiffs  
 appealed that order, Dkt. No. 60, but they recently moved to voluntarily dismissed their appeal  
 with prejudice, which the Ninth Circuit granted, Dkt. No. 64.

promulgate a partial FIP for the Los Angeles—San Bernardino Counties (West Mojave Desert), California nonattainment area (codified at 40 C.F.R. § 81.305) (Mojave Desert Air Quality Management District) for the SIP element listed below no later than November 29, 2024:

Item	State Implementation Plan Submittal and/or Applicable Elements or Control Techniques Guideline
i.	Nonattainment new source review pursuant to 42 U.S.C. §§ 7511a(a)(2)(C) and 7511a(d) (“Severe NNSR”)

Dkt. No. 37 ¶ 1.b. On November 8, 2024, the parties stipulated to extend EPA’s Paragraph 1.b deadline to January 10, 2025. Dkt. No. 62. On December 17, 2024, the EPA administrator signed a final rule for a FIP establishing severe NNSR rules for the Mojave Desert Air Quality Management District, which was published in the Federal Register on December 30, 2024. 89 Fed. Reg. 106332 (Dec. 30, 2024).

3. Paragraph 1.c of the Consent Decree provides that the appropriate EPA official shall “sign a notice of final rulemaking to approve a revised SIP submission, to promulgate a FIP, or to approve in part a revised SIP submission and promulgate a partial FIP for the Sacramento Metro, California nonattainment area (codified at 40 C.F.R. § 81.305) (Sacramento Metropolitan Air Quality Management District) for the SIP elements or Control Techniques Guideline (“CTG”) listed below no later than March 31, 2024:

Item	State Implementation Plan Submittal and/or Applicable Elements or Control Techniques Guideline
i.	RACT Non-Control Techniques Guidelines (“CTG”) VOC for Major Sources pursuant to 42 U.S.C. § 7511a(b)(2)(C) (“RACT Non-CTG VOC for Major Sources”)
ii.	Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations, EPA-453/R-97-004 (Dec. 1997) pursuant to 42 U.S.C. § 7511a(b)(2) (“Aerospace”)
iii.	Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings, EPA 453/R-08-006 (Sept. 2008) pursuant to 42 U.S.C. § 7511a(b)(2) (“Automobile & Light Duty Truck Assembly Coatings”)
iv.	Control of Volatile Organic Emissions from Bulk Gasoline Plants, EPA-450/2-77-035 (Dec. 1977) pursuant to 42 U.S.C. § 7511a(b)(2) (“Bulk Gasoline Plant CTG”)

Item	State Implementation Plan Submittal and/or Applicable Elements or Control Techniques Guideline
v.	Control of Volatile Organic Compound Equipment Leaks from Natural Gas/Gasoline Processing Plants, EPA-450/3-83-007 (Dec. 1983) pursuant to 42 U.S.C. § 7511a(b)(2) (“Equipment Leaks from Natural Gas/Gasoline Processing Plants”)
vi.	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume VII: Factory Surface Coating of Flat Wood Paneling, EPA-450/2-78-032 ( <i>June 1978</i> ) pursuant to 42 U.S.C. § 7511a(b)(2) (“Factory Surface Coating of Flat Wood Paneling”)
vii.	Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials, EPA 453/R-08-004 (Sept. 2008) pursuant to 42 U.S.C. § 7511a(b)(2) (“Fiberglass Boat Manufacturing Materials”)
viii.	Control Techniques Guidelines for Flat Wood Paneling Coatings, EPA-453/R-06-004 (Sept. 2006) pursuant to 42 U.S.C. § 7511a(b)(2) (“Flat Wood Paneling Coatings”)
ix.	Control Techniques Guidelines for Flexible Package Printing, EPA-453/R-06-003 (Sept. 2006) pursuant to 42 U.S.C. § 7511a(b)(2) (“Flexible Package Printing”)
x.	Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment, EPA-450/3-83-006 (Mar. 1984) pursuant to 42 U.S.C. § 7511a(b)(2) (“Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment”)
xi.	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume VIII: Graphic Arts-Rotogravure and Flexography, EPA-450/2-78-033 (Dec. 1978) pursuant to 42 U.S.C. § 7511a(b)(2) (“Graphic Arts-Rotogravure and Flexography”)
xii.	Control Techniques Guidelines for Industrial Cleaning Solvents, EPA-453/R-06-001 (Sept. 2006) pursuant to 42 U.S.C. § 7511a(b)(2) (“Industrial Cleaning Solvents”)
xiii.	Control Techniques Guidelines for Large Appliance Coatings, EPA-453/R-07-004 (Sept. 2007) pursuant to 42 U.S.C. § 7511a(b)(2) (“Large Appliance Coatings”)
xiv.	Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners, EPA-450/3-82-009 (Sept. 1982) pursuant to 42 U.S.C. § 7511a(b)(2) (“Large Petroleum Dry Cleaners”)
xv.	Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems, EPA-450/2-78-051 (Dec. 1978) pursuant to 42 U.S.C. § 7511a(b)(2) (“Leaks from Gasoline Tank Trucks and Vapor Collection Systems”)
xvi.	Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment, EPA-450/2-78-036 (June 1978) pursuant to 42 U.S.C. § 7511a(b)(2) (“Leaks from Petroleum Refinery Equipment”)
xvii.	Control Techniques Guidelines for Offset Lithographic Printing and Letterpress Printing, EPA-453/R-06-002 (Sept. 2006) pursuant to 42 U.S.C. § 7511a(b)(2) (“Offset Lithographic Printing and Letterpress Printing”)
xviii.	Control of Volatile Organic Compound Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins, EPA-450/3-83-008 (Nov. 1983) pursuant to 42 U.S.C. § 7511a(b)(2) (“Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins”)

Item	State Implementation Plan Submittal and/or Applicable Elements or Control Techniques Guideline
xix.	Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires, EPA-450/2-78-030 (Dec. 1978) pursuant to 42 U.S.C. § 7511a(b)(2) (“Manufacture of Pneumatic Rubber Tires”)
xx.	Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products, EPA-450/2-78-029 (Dec. 1978) pursuant to 42 U.S.C. § 7511a(b)(2) (“Manufacture of Synthesized Pharmaceutical Products”)
xxi.	Control Techniques Guidelines for Metal Furniture Coatings, EPA 453/R-07-005 (Sept. 2007) pursuant to 42 U.S.C. § 7511a(b)(2) (“Metal Furniture Coatings”)
xxii.	Control Techniques Guidelines for Miscellaneous Industrial Adhesives, EPA 453/R-08-005 (Sept. 2008) pursuant to 42 U.S.C. § 7511a(b)(2) (“Miscellaneous Industrial Adhesives”)
xxiii.	Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings, EPA 453/R-08-003 (Sept. 2008) <sup>3</sup> pursuant to 42 U.S.C. § 7511a(b)(2) (“Miscellaneous Metal and Plastic Parts Coatings”)
xxiv.	Control Techniques Guidelines for Paper, Film, and Foil Coatings, EPA 453/R-07-003 (Sept. 2007) pursuant to 42 U.S.C. § 7511a(b)(2) (“Paper, Film, and Foil Coatings”)
xxv.	Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks, EPA-450/2-78-047 (Dec. 1978) pursuant to 42 U.S.C. § 7511a(b)(2) (“Petroleum Liquid Storage in External Floating Roof Tanks”)
xxvi.	Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds, EPA-450/2-77-025 (Oct. 1977) pursuant to 42 U.S.C. § 7511a(b)(2) (“Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds”)
xxvii.	Control of Volatile Organic Compound Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry (“SOCMI”), EPA-450/3-84-015 (Dec. 1984) pursuant to 42 U.S.C. § 7511a(b)(2) (“Air Oxidation Processes in SOCMI”)
xxviii.	Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations in SOCMI, EPA-450/4-91-031 (Aug. 1993) pursuant to 42 U.S.C. § 7511a(b)(2) (“Reactor Processes and Distillation Operations in SOCMI”)
xxix.	Control Techniques Guidelines for Shipbuilding and Ship Repair Operations (Surface Coating), 61 Fed. Reg-44,050 (Aug. 27, 1996) pursuant to 42 U.S.C. § 7511a(b)(2); <i>see also</i> EPA-453/R-94-032 (“Shipbuilding and Ship Repair Operations (Surface Coating)”)
xxx.	Control of Volatile Organic Emissions from Solvent Metal Cleaning, EPA-450/2-77-022 (Nov. 1977) pursuant to 42 U.S.C. § 7511a(b)(2) (“Solvent Metal Cleaning”)

<sup>3</sup> The First Amended Complaint refers to two separate CTGs, “RACT VOC CTG Miscellaneous Metal Products Coatings (2008),” and “RACT VOC CTG Plastic Parts Coatings (2008).” First Amended Complaint, tbl. 1. These requirements are contained in a single CTG document.

Item	State Implementation Plan Submittal and/or Applicable Elements or Control Techniques Guideline
xxxi.	Design Criteria for Stage I Vapor Control Systems – Gasoline Service Stations, EPA-450/R-75-102 (Nov. 1975) <sup>4</sup> pursuant to 42 U.S.C. § 7511a(b)(2) (“Stage I Vapor Control Systems – Gasoline Service Stations”)
xxxii.	Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks, EPA-450/2-77-036 (Dec. 1977) pursuant to 42 U.S.C. § 7511a(b)(2) (“Storage of Petroleum Liquids in Fixed-Roof Tanks”)
xxxiii.	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume IV: Surface Coating for Insulation of Magnet Wire, EPA-450/2-77-033 (Dec. 1977) pursuant to 42 U.S.C. § 7511a(b)(2) (“Existing Stationary Sources – Volume IV: Surface Coating for Insulation of Magnet Wire”)
xxxiv.	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks, EPA-450/2-77-008 (May 1977) pursuant to 42 U.S.C. § 7511a(b)(2) (“Existing Stationary Sources – Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks”)
xxxv.	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume V: Surface Coating of Large Appliances, EPA-450/2-77-034 (Dec. 1977) pursuant to 42 U.S.C. § 7511a(b)(2) (“Existing Stationary Sources – Volume V: Surface Coating of Large Appliances”)
xxxvi.	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume III: Surface Coating of Metal Furniture, EPA-450/2-77-032 (Dec. 1977) pursuant to 42 U.S.C. § 7511a(b)(2) (“Existing Stationary Sources – Volume III: Surface Coating of Metal Furniture”)
xxxvii.	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume VI: Surface Coating of Miscellaneous Metal Parts and Products, EPA-450/2-78-015 (June 1978) pursuant to 42 U.S.C. § 7511a(b)(2) (“Existing Stationary Sources – Volume VI: Surface Coating of Miscellaneous Metal Parts and Products”)
xxxviii.	Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals, EPA-450/2-77-026 (Oct. 1977) pursuant to 42 U.S.C. § 7511a(b)(2) (“Tank Truck Gasoline Loading Terminals”)
xxxix.	Control of Volatile Organic Emissions from Use of Cutback Asphalt, EPA-450/2-77-037 (Dec. 1977) pursuant to 42 U.S.C. § 7511a(b)(2) (“Cutback Asphalt”)
xl.	Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations, EPA-453/R-96-007 (Apr. 1996) pursuant to 42 U.S.C. § 7511a(b)(2) (“Wood Furniture Manufacturing Operations”)

<sup>4</sup> This document is regarded as a CTG although it was never published with an EPA document number.



Dkt. No. 37 ¶ 1.c. On June 30, 2023, EPA published a final action in the Federal Register resolving its Paragraph 1.c Consent Decree Obligations. 88 Fed. Reg. 42248 (June 30, 2023).

4. Paragraph 1.d of the Consent Decree provides that the appropriate EPA official shall “sign a notice of final rulemaking to approve a revised SIP submission, to promulgate a FIP, or to approve in part a revised SIP submission and promulgate a partial FIP for the Sacramento Metro, California nonattainment area (codified at 40 C.F.R. § 81.305) (Sacramento Metropolitan Air Quality Management District) for the RACT NO<sub>x</sub> for Major Sources pursuant to 42 U.S.C. § 7511a(f) (“RACT NO<sub>x</sub> for Major Sources”) element no later than September 30, 2024.” Dkt. No. 37 ¶ 1.d. On September 25, 2024, EPA published a final action resolving its Paragraph 1.d Consent Decree obligations. 89 Fed. Reg. 78255 (Sept. 25, 2024).

5. Paragraph 1.e of the Consent Decree provides that the appropriate EPA official shall “sign a notice of final rulemaking to approve a revised SIP submission, to promulgate a FIP, or to approve in part a revised SIP submission and promulgate a partial FIP for the Sacramento Metro, California nonattainment area (codified at 40 C.F.R. § 81.305) (Yolo-Solano Air Quality Management District) for the SIP elements or CTG listed below no later than March 31, 2024:

Item	State Implementation Plan Submittal and/or Applicable Elements or Control Techniques Guideline
i.	RACT Non-CTG VOC for Major Sources
ii.	RACT NO <sub>x</sub> for Major Sources
iii.	Bulk Gasoline Plants
iv.	Fiberglass Boat Manufacturing Materials
v.	Industrial Cleaning Solvents
vi.	Leaks from Gasoline Tank Trucks and Vapor Collection Systems
vii.	Petroleum Liquid Storage in External Floating Roof Tanks

Item	State Implementation Plan Submittal and/or Applicable Elements or Control Techniques Guideline
viii.	Solvent Metal Cleaning
ix.	Stage I Vapor Control Systems – Gasoline Service Stations
x.	Miscellaneous Metal and Plastic Parts Coatings
xi.	Existing Stationary Sources – Volume IV: Surface Coating for Insulation of Magnet Wire
xii.	Existing Stationary Sources – Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks
xiii.	Existing Stationary Sources – Volume V: Surface Coating of Large Appliances
xiv.	Existing Stationary Sources – Volume VI: Surface Coating of Miscellaneous Metal Parts and Products
xv.	Tank Truck Gasoline Loading Terminals
xvi.	Cutback Asphalt

Dkt. No. 37 ¶ 1.e. On June 22, 2023, EPA signed a final action resolving its obligations as to the elements identified in Paragraph 1.e.i, iii-xvi. 88 Fed. Reg. 42252 (June 30, 2023). On March 14, 2024, EPA published a final action resolving its obligations as to the element identified in Paragraph 1.e.ii. 89 Fed. Reg. 18546 (Mar. 14, 2024).

6. Paragraph 1.f of the Consent Decree provides that the appropriate EPA official shall “sign a notice of final rulemaking to approve a revised SIP submission, to promulgate a FIP, or to approve in part a revised SIP submission and promulgate a partial FIP for the New Hampshire portion of the [Ozone Transport Region] for the SIP elements or CTG listed below no later than September 30, 2023:

Item	State Implementation Plan Submittal and/or Applicable Elements or Control Techniques Guideline
i.	RACT Non-CTG VOC for Major Sources
ii.	RACT NO <sub>x</sub> for Major Sources
iii.	Aerospace Manufacturing and Rework Operations
iv.	Automobile and Light-Duty Truck Assembly Coatings



Item	State Implementation Plan Submittal and/or Applicable Elements or Control Techniques Guideline
v.	Bulk Gasoline Plants
vi.	Equipment Leaks from Natural Gas/Gasoline Processing Plants
vii.	Existing Stationary Sources – Volume VII: Factory Surface Coating of Flat Wood Paneling
viii.	Fiberglass Boat Manufacturing Materials
ix.	Flat Wood Paneling Coatings
x.	Flexible Package Printing
xi.	Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment
xii.	Existing Stationary Sources – Volume VIII: Graphic Arts-Rotogravure and Flexography
xiii.	Industrial Cleaning Solvents
xiv.	Large Appliance Coatings
xv.	Large Petroleum Dry Cleaners
xvi.	Leaks from Gasoline Tank Trucks and Vapor Collection Systems
xvii.	Leaks from Petroleum Refinery Equipment
xviii.	Offset Lithographic Printing and Letterpress Printing
xix.	Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins
xx.	Manufacture of Pneumatic Rubber Tires
xxi.	Manufacture of Synthesized Pharmaceutical Products
xxii.	Metal Furniture Coatings
xxiii.	Miscellaneous Industrial Adhesives
xxiv.	Miscellaneous Metal and Plastic Parts Coatings
xxv.	Paper, Film, and Foil Coatings
xxvi.	Petroleum Liquid Storage in External Floating Roof Tanks

Item	State Implementation Plan Submittal and/or Applicable Elements or Control Techniques Guideline
xxvii.	Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds
xxviii.	Air Oxidation Processes in SOCM I
xxix.	Reactor Processes and Distillation Operations in SOCM I
xxx.	Shipbuilding and Ship Repair Operations (Surface Coating)
xxxi.	Solvent Metal Cleaning
xxxii.	Stage I Vapor Control Systems – Gasoline Service Stations
xxxiii.	Storage of Petroleum Liquids in Fixed-Roof Tanks
xxxiv.	Existing Stationary Sources – Volume IV: Surface Coating for Insulation of Magnet Wire
xxxv.	Existing Stationary Sources – Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks
xxxvi.	Existing Stationary Sources – Volume V: Surface Coating of Large Appliances
xxxvii.	Existing Stationary Sources – Volume III: Surface Coating of Metal Furniture
xxxviii.	Existing Stationary Sources – Volume VI: Surface Coating of Miscellaneous Metal Parts and Products
xxxix.	Tank Truck Gasoline Loading Terminals
xl.	Cutback Asphalt
xli.	Wood Furniture Manufacturing Operations

Dkt. No. 37 ¶ 1.f. On September 6, 2023, EPA published a final action resolving its Paragraph 1.f Consent Decree obligations, except with respect to elements under 1.f.ii that pertain to Merrimack Station. 88 Fed. Reg. 60893 (Sept. 6, 2023). The parties stipulated to extend EPA’s deadline as it pertains to that element until April 30, 2024. Dkt. No. 38. On April 30, 2024, EPA published a final action resolving its remaining obligations under Paragraph 1.f. 89 Fed. Reg. 34137 (Apr. 30, 2024).

7. Paragraph 1.g of the Consent Decree provides that the appropriate EPA official shall “sign a notice of final rulemaking to approve a revised SIP submission, to promulgate a

1 FIP, or to approve in part a revised SIP submission and promulgate a partial FIP addressing the  
2 portion of the revision to the [Placer County Air Pollution Control District] portion of the  
3 California SIP concerning minor source NSR, to the extent disapproved in 85 Fed. Reg. 21777,  
4 no later than September 30, 2023.” Dkt. No. 37 ¶ 1.g. On September 26, 2023, EPA published a  
5 final action in the Federal Register resolving its obligations under Paragraph 1.g. 88 Fed. Reg.  
6 65816 (Sept. 26, 2023).

7 8. Paragraph 1.h of the Consent Decree provides that the appropriate EPA official  
8 shall “sign a notice of final rulemaking to approve, disapprove, conditionally approve, or  
9 approve in part and conditionally approve or disapprove in part, the SIP submittal from  
10 California addressing the 2020 RACT demonstration for the 2008 ozone NAAQS for San Diego  
11 County, except for the three negative declarations listed at 87 Fed. Reg. at 38666 and one  
12 negative declaration listed at 87 Fed. Reg. at 33697, no later than October 31, 2024.” Dkt. No.  
13 37 ¶ 1.h. On August 23, 2024, the state withdrew all elements of the submittal that EPA was  
14 required to act on under the Consent Decree except for a negative declaration for the Oil and  
15 Natural Gas Industry CTG (section 1.2.2.2 of the RACT demonstration). Accordingly, EPA’s  
16 Consent Decree obligations as to those withdrawn elements were terminated pursuant to  
17 Paragraph 2 of the Consent Decree. Dkt. No. 37 ¶ 2. On October 29, 2024, EPA signed a final  
18 action resolving its remaining obligations under Paragraph 1.h, which was published in the  
19 Federal Register on November 4, 2024. 89 Fed. Reg. 87505 (Nov. 4, 2024).

20 9. The Parties have resolved the issue of attorneys’ fees and costs in this matter.

21 10. Paragraph 4 of the Consent Decree states that “[a]fter EPA has completed the  
22 actions set forth in Paragraph 1 of this Consent Decree, after the notices of each final action  
23 required by Paragraph 1 have been published in the *Federal Register*, and the issue of costs of  
24 litigation, including reasonable attorneys’ fees, has been resolved, EPA may move to have this  
25 Consent Decree terminated and the above-captioned matter shall be dismissed with prejudice.”  
26 Dkt. No. 37 ¶ 4.

27 11. Counsel for Plaintiffs has advised via email that Plaintiffs do not oppose EPA’s  
28 motion.

1 WHEREFORE, EPA respectfully moves the Court to terminate the Consent Decree.

2  
3 Dated: May 1, 2025

Respectfully submitted,

4 ADAM R.F. GUSTAFSON  
5 Acting Assistant Attorney General

6  
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